N THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 12002 of 2005

Between:

Gangadhari Narsaiah, S/o.Chennaiah,
R/o.Madharam Kalan Village, Shaligauraram Mandal, Nalgonda District.

..... PETITIONER

AND

1 The District Collector, Nalgonda Dist. Nalgonda.
2 The Executive Engineer (I.B) Nalgonda, Nalgonda Dist.
3 The Divisional Electoral officer, Nalgonda, Nalgonda Dist.
4 The Mandal Revenue officer, Shaligouram Mandal, Nalgonda Dist.
5 The Sub-Treasury officer, Nakrekal, Nalgonda Dist.
6 Sri Thatikonda Krishna Reddy, The Election officer, Occ.Pet,

Z.P.H.S.Shaligouraram village & Mandal, Nalgonda District.
7 Talluri Murali S/o.Sri Ramulu,
R/o.Nakrekal Village and Mandal, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus to declare the action of the 1st respondent in not preventing the 7th respondent from withdrawing the amounts from the 5th respondent pursuant to the representation submitted by the petitioner on 25-5-2005 without commencing any work, as arbitrary, illegal, arbitrary, illegal, unjust and consequently direct the respondent Nos.2 and 4 not to allot/permit the 7th respondent to execute any works pertaining to the water users Association of Rama Neela Samudram (Rama Samudram) of Madharam (Kalan) village, Shaligouraram Mandal, Nalgonda District, and to grant such other relief or reliefs as this Hon'ble court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.PALLENAGESWAR RAO

Counsel for the Respondents 1 to 5: GP FOR REVENUE

Counsel for the Respondents 7: Mr.Pratap Reddy

The Court at the admission stage made the following :

O R D E R:

The writ petition is filed under Article 226 of the Constitution of India questioning the action of the 1st respondent in not considering the representation submitted by him on 25-05-2005 requesting to prevent the 7th respondent from withdrawing the amounts from the 5th respondent-Sub-Treasury Officer, Nakreka, Nalgonda District, without commencement of any work as arbitrary, illegal.

It is stated that the petitioner and the 7th respondent herein contested for the post of Territorial Constituency (TC) Member of Water Users Association of Rama Neela Samudram of Madhavaram (Kalan) Village of Shaligouraram Mandal, Nalgonda District. On the date of nomination i.e. 25-4-2005, the petitioner submitted a petition before the 6th respondent-Election Officer stating that since the 7th respondent who is contesting for the post of T.C. Member is a contractor and carrying out Government contract works, he is not eligible to contest in the elections, as per the circular issued by the 1st respondent-District Collector the 7th respondent is not eligible to contest in the elections. But the 6th respondent-Election Officer for the reasons best known to him did not take any action against the 7th respondent. Subsequently, 7th respondent was elected as a Chairman of Water Users Association of Rama Neela Samudram, Madharam (Kalan) village. It is also stated that on the date of elections, the 7th respondent carrying on the work pertaining to the Irrigation and CAD (P.W.) Department vide Agreement No.4 EE/2004-05 dated
15-09-2004. The said work was to be completed by 28-02-2005 as he failed to complete the same he got the agreement extended till
30-04-2005. Therefore, it is clear that the 7th respondent, contrary to the circular No. F1/583/2005 dt. 8-4-2005 issued by the District Collector, Nalgonda contested in the said elections by carrying on contract work in the Government. It is further stated that only for the purpose of contesting in the said elections the 7th respondent had purchased Ac.0.20 guntas of land and that his name is also not included in the Voter List of Gram Panchayat and that he is also involved in several criminal cases. Assailing the election of the 7th respondent, the petitioner filed an O.P. before the Election Tribunal-cum-Junior Civil Judge at Nakrekal for Farmers Organisation under A.P Management of Irrigation System Act,

197-cum-Junior Civil Judge at Nakrekal seeking to declare that the election of the 7th respondent as null and void. As the matter stood thus, the Village Secretary of Madaram (Kalan) village is collecting the taxes from the Water Users and depositing the same in the Treasury. Without commencing any work, the 7th respondent is withdrawing amounts from the 5th respondent. An amount of Rs.5,00,000/- was already sanctioned for construction of Feeder Channel from Keesara Vagu to Ramaneela Samudram. It is further stated that the petitioner made a representation dated 25-5-2005 to the District Collector, Nalgonda stating that contrary to the above said circular dated 8-4-2005 the 7th respondent contested in the said elections and that he is withdrawing the amounts from the 5th respondent-Sub Treasury Officer without commencing any work and misusing the same for his personal use. The grievance of the petitioner is that he though made a representation dated 25-5-2005 to the 1st respondent-District Collector, Nalgonda, requesting not to permit the 7th respondent to withdraw amounts, yet the 7th respondent is withdrawing the amounts regularly without any reason. Hence the present writ petition has been filed.

Heard both sides.

It is not in dispute that the petitioner, who contested in the elections was defeated at the hands of the 7th respondent, filed the writ petition stating that he filed an O.P. before the election tribunal seeking to declare the election of the 7th respondent as null and void.

On a perusal of the material available on record, I am of the considered view that the relief sought for by the petitioner that the 7th respondent has contravened the circular dated 08-04-2005 issued by the 1st respondent-District Collector, Nalgonda, and contested the elections is totally different from the relief of seeking a direction to the 5th respondent – Sub-Treasury Officer, Nalgonda to restrain the 5th respondent from paying the amounts to the 7th respondent for the alleged contract works. Under these circumstances, I do not see any reason to entertain the writ petition invoking the jurisdiction under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No costs.

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09-06-2005

Mjl/*

To,

1 The District Collector, Nalgonda Dist. Nalgonda.
2 The Executive Engineer (I.B) Nalgonda, Nalgonda Dist.
3 The Divisional Electoral officer, Nalgonda, Nalgonda Dist.
4 The Mandal Revenue officer, Shaligouram Mandal, Nalgonda Dist.
5 The Sub-Treasury officer, Nakrekal, Nalgonda Dist.
6. 2 CCs to G.P. for Revenue, High Court buildings, Hyderabad.

7. 2 CD copies.